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*Add TO FILE*

July 28, 2004

**BY FEDERAL EXPRESS DELIVERY**

Thomas Z. Cooper  
Chief  
Vehicle Integrity Division  
Office of Defects Investigation - Enforcement  
National Highway Traffic Safety Administration  
400 Seventh Street, S.W.  
Washington, D.C. 20590  
(202) 366-5221

OFFICE OF DEFECTS  
INVESTIGATION

2004 AUG 11 P 1:37

RECEIVED  
NVS-210

**RE: Evenflo Discovery® Infant Child Restraint  
PE04-024**

Dear Mr. Cooper:

This letter is in response to a letter submitted to the Agency by Attorney Anthony J. Masciopinto of the Law Offices of Paul B. Episcopo, LLC, dated June 7, 2004. Evenflo recently received notice of said letter on or about July 14, 2004, soon after it was first published on your website.

In his letter, Mr. Masciopinto incorrectly claims that Evenflo made "certain misstatements" regarding one of the collisions discussed in Evenflo's initial response of April 29, 2004. As you are aware, Evenflo summarized each of the collisions in its letter for brevity; however, Evenflo provided the Agency ALL associated consumer reports, police reports, photographs, and relevant court filings it had in its possession as of the date of the letter. Therefore, Mr. Masciopinto's claims that Evenflo mischaracterized the severity of this one particular or any other collision are without merit.

In formulating its response, Evenflo relied upon police reports and witness statements for estimates of vehicle speeds. A witness to this collision, a retired police officer, estimated the speed of the striking vehicle (an Isuzu Trooper) to be "in the 30s." As indicated in the police report, the driver of the Trooper was cited for "driving too fast to avoid accident." The child restraint vehicle, a Ford Escort, was struck on the passenger side between the B and C pillars. It moved approximately 25 feet, rotating clockwise and coming to rest after jumping a curb.

One of the experts retained by Evenflo's attorneys in subsequent litigation did produce a report, referenced by Mr. Masciopinto, indicating a speed lower than that indicated by the witness. The date of this report was April 26, 2004; however, it was not received by Evenflo's attorneys until April 28, 2004 and was received by Evenflo a few

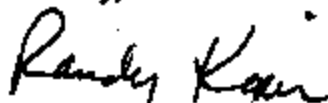
days after April 28. The report was therefore unavailable to Evenflo when it completed its response on April 29. An analysis prepared by the plaintiff's expert used speeds for the Trooper of 25 and 30 mph, relying upon witness testimony. The closing speed of the Trooper is still in dispute in this matter, and Evenflo's response of April 29 reflects the best information available at that time.

Mr. Masciopinto said that "Evenflo also has misstated another aspect of the accident," apparently by indicating that there is some dispute as to whether or not the mother, who was seated immediately adjacent to the child, was belted or unbelted at the time of the collision. We indicated in footnote 9 (page 37) of our response that the mother was "possibly unbelted" and that the parties in the matter do not agree on this point. Evenflo does not believe that relating both sides of the story equally in any way "misstates" one aspect of this collision. Accordingly, Evenflo did not "misstate" this disputed fact; rather, Evenflo accurately reported the current positions of the parties.

Finally, Mr. Masciopinto said, "Evenflo makes much of the fact that the child was on the near side of the impacts and suggests that this likely contributed to the carrier releasing from the base." Evenflo did accurately indicate that this subject child restraint was installed exactly at the point of impact, and that there was significant static intrusion into the vehicle at the point of impact, and supplied the police report and photographs to support these statements. Wherever possible given the available information, an analysis of similar detail was supplied for each collision in Evenflo's April 29 and June 23 letters. These analyses considered all relevant factors, including the child's seating position relative to the point of impact, and each analysis was unique to the specific collision. Evenflo is uncertain what point Mr. Masciopinto is attempting to make in the first paragraph on page 2 of his letter, as Evenflo believes it gave equal weight to each report of an inadvertent detachment, and the data he cites to "prove" his point are directly from Evenflo's response.

Please let me know if you have any questions or concerns. Thank you for your time and attention to this matter.

Sincerely,



Randy Kiser